MONTANA LEGISLATIVE HISTORY

Chapter 293 19 77

Bill H 523 S _____ Original bill & history ___C

H. Committee on Public Health		S. Committee on _____	
Hearing Date(s) [illegible]	___C	Hearing Date(s) 3-22	✓C
2-15	✓C	_____	___C
_____	___C	_____	___C
_____	___C	_____	___C
Date Out 2-17	___C		

Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report _____

PUBLIC HEALTH WELFARE & SAFETY COMMITTEE
45th Legislature

Bill No.	Subject Matter	Date In	Sponsor	Hearing Date	Committee Action	Date Out
HB 461	TO CREATE THE DIVISION OF FORENSIC SCIENCE IN THE DEPT. OF JUSTICE	1/24/77	Holmes, Keyser	2/8/77	Subcomm. 2/8/77 DO PASS AS AMENDED	2/15/77
HB 480	TO GENERALLY REVISE THE LAWS CONCERNING COMMUNITY MENTAL HEALTH CENTERS.	1/24/77	Bengtson, Dussault, et al	2/8/77	DO PASS AS AMENDED	2/17/77
HB 490	TO ALLOW BD. OF MED. EXAMINERS TO WAIVE PERSONAL APPEARANCES BEFORE THE BOARD PRIOR TO ISSUING A LICENSE TO PRACTICE MEDICINE.	1/24/77	Nathe	2/10/77	DO PASS	2/10/77
HB 298	TO REQUIRE DEPTS., INSTITUTIONS, AGENCIES, ETC. TO PROCURE PRODUCTS & SERVICES FROM SHELTERED WORKSHOPS & WORK ACTIVITY CENTERS.	1/26/77	Bengtson, Dussault, et al	2/8/77	DO PASS AS AMENDED	2/8/77
HB 523	TO ALLOW DEPT. OF SRS TO RECEIVE APPLICATIONS FOR DAY CARE LICENSES FROM INDIANS RESIDING ON A RESERVATION.	1/26/77	Kennerly, Waldron, et al	2/15/77	DO PASS	2/17/77
HJR 38	COMMENDING HOUSEWIVES & MOTHERS & EXPRESSING THE LEGISLATURE'S INTENTION TO SUPPORT LEGISLATION REAFFIRMING & STRENGTHENING THE SOLIDITY OF THE HOME.	1/26/77	Tower, Conroy, et al	2/10/77	DO PASS	2/10/77

H BILL NO. 523

INTRODUCED BY Kennedy Waldron Johnson B Booth

BY REQUEST OF THE DEPARTMENT OF COMMUNITY AFFAIRS

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION 10-805, R.C.M. 1947, TO ALLOW THE DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES TO RECEIVE APPLICATIONS FOR DAY CARE LICENSES FROM INDIANS RESIDING ON AN INDIAN RESERVATION."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 10-806, R.C.M. 1947, is amended to read as follows:

"10-806. Licenses issued by the state department -- application by Indians -- rules -- minimum requirements of licensees. (1) The state department shall issue licenses to persons to receive into a day care facility, children for care during the day or part of a day. Application for a license shall be made to the state department through the county department of public welfare in the county in which the applicant lives, on forms prescribed by the state department. Upon receipt of the application, the county welfare department, shall, within a reasonable time, investigate to determine whether a license should be granted.

(2) Applications by Indians residing on Indian reservations shall be made through the tribal governing body on forms prescribed by the state department. Applications made through a tribal governing body shall be accompanied by a request by the tribal governing body that the county welfare department in the county in which the applicant resides investigate to determine whether a license should be granted. This investigation shall be made within a reasonable time.

~~(2)~~(3) The state department shall prescribe the conditions upon which licenses are issued, and shall adopt rules for the conduct of the facilities which are consistent with the welfare of the children received. The state department must issue licenses to agencies meeting the following minimum requirements:

(a) The applicant, his employees, and all those persons who will come in direct contact with the children are of good moral character

(b) The staff of the facility is sufficient in number to provide adequate supervision and care of the children admitted

(c) Essential programs and practices carried on by the facility staff are developed and carried out with due regard for the protection of the health, safety, development, and well-being of the children

(d) Applicant and staff are qualified by practical

experience or education or training, to give good care and treatment to the children

(e) Physical facilities are of a kind that can meet the minimum state standards to provide for the protection of the children from fire and health hazards

(f) Intake records are kept on each child admitted for care

(g) The applicant and staff limits admissions to the maximum number indicated on the current license

(h) The applicant will arrange for the necessary precautions to guard against communicable diseases

(i) Public liability insurance and fire insurance is currently in force for the protection of the operator, his staff, and the facility."

-End-

STATE OF MONTANA

REQUEST NO. 559–77

FISCAL NOTE

Form BD-15

In compliance with a written request received February 9, 1977, there is hereby submitted a Fiscal Note for House Bill 523 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly.

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

To allow Department of Social and Rehabilitation Services to receive applications for day care licenses from Indians on Indian reservations.

FISCAL IMPACT:

None. The Department currently licenses Indians on reservations on an individual basis.

TECHNICAL NOTE:

House Bill 523 appears to be a duplicate of House Bill 629.

Richard L. Dawson

BUDGET DIRECTOR
Office of Budget and Program Planning

Date: 2-23-77

February 15, 1977

PUBLIC HEALTH, WELFARE AND SAFETY COMMITTEE PROCEEDINGS:

A meeting of the House Public Health, Welfare and Safety Committee was held on Tuesday, February 15, 1977 at 10:00 a.m. in Room 431 of the State Capitol. All members were present with the exception of Reps. Palmer, Gould, Metcalf, Porter and Kimble, who were excused.

The first bill heard was HOUSE BILL 523. The sponsor was Rep. Kennerly. This bill is trying to correct some problems within the law. Passage of the bill would allow the Dept. of SRS to receive applications for day care licenses from Indians residing on Indian reservations. SRS funds are federal funds administered by the state and the state does not have the jurisdiction to license centers on Indian reservations; therefore they are not eligible for federal funds, simply because of a technicality of the law. This is a simple thing and has been done in other areas in the past. Merle R. Lucas, Coordinator of Indian Affairs for the State of Montana, then spoke. If a center were to default, the state would simply not relicense it. There were no opponents to HB 523. Questons were asked.It was explained that the bill would not require a fiscal note, as only federal funds would be involved. The sponsor closed. The Welfare Dept. will be the "watchdog" for the implementation of this bill.

HOUSE BILL 724, sponsored by Rep. Lynch, was heard next. He explained that he had introduced the bill at the request of Bob Fowler, MHD project in Butte. It has been proven that asbestos is a problem if it is abused; this simply prohibits that abuse. Ernie Post then spoke in favor of the bill; see prepared statement. No opponents spoke. Questions were then asked. It was reassured that passage of this bill would not do away with the use of asbestos, it would only control it. The bill was copied from a similar measure proposed in Ohio. It was unclear whether this subjuct was already covered in the OSHA regulations.

HOUSE BILL 371 was then heard. The sponsor, Rep. Harper, distributed amendments to the bill which modified its wording to incorporate the most recent definition of death, as proposed by the American Bar Assoc. The present law is common law; in the absence of breathing, pulse and heartbeat the patient is dead. The problem we are facing is that the common law definition of death does not jibe with medical definitions any more. The advances in the field of transplants is making this problem apparent. More and more states are passing this type of legislation. He gave several points proving the merits of the definition put forth in the amended version of the bill, such as: (1) it permits judicial determination; (2) it avoids religious determination of any facts; and so on. This bill should not be confused with euthenasia. Under the proposed definition of death, Karen Quinlan could not have been killed in the euthenasia sense. The problem is that it is very difficult to get a vital organ in good enough condition to transplant under the current law. Schematic injury occurs under the current common law definition at a much higher rate than under the new definition. Sen.Dover spoke up in favor of the bill. He feels that the brain is what determines whether or not the patient is alive. This definition has stood up in several court cases. It has worked for everyone involved. Chad Smith, Montana Hospital Association, then spoke. He feels that the bill as amended is acceptable. Gerald J. Neely, Montana Medical Assoc. was the

talked to Pat Kenney, County Commissioner, who agrees with this feeling. Gregg L. McCurdy, Montana Association of Counties then spoke and left a copy of his testimony. George Sager, Gallatin County Commissioner, spoke in opposition to the bill, as did Dale Skaalure, Choteau County Commissioner. Mr. Skaalure left an outline of his testimony. Larry Anderson, Liberty County Commissioner, then spoke. About six mills of their seven-mill levy go to the poor fund, which would be wiped out by this bill. Equality is a fine term, but can we have truly equal service in every area? His county is taking care of the people it needs to take care of. Representative Palmer then closed. He stressed that it makes no sense that a large county has to pay a large amount of property taxes. A majority of the counties voted against this measure, but 57% of the people supported it. Also, a county can still levy a poor fund to support hospitals. Questions then followed. Representative Lynch wanted to amend the bill to leave the administration with the counties themselves. Commissioner Skaalure stated that basically he would be opposed to such an amendment because the state picks up the tab after 13 mills. The hearing on HB 676 was then closed.

HOUSE BILL 658, sponsored by Representative Lynch, was heard next. This bill was introduced at the request of the Department of Institutions. The testimony was then turned over to Joan Uda, Office of Budget and Program Planning staff attorney. She explained that this bill was developed in part by her office and in part by the Department of Institutions. The main purpose of the bill is to give a legal footing to develop reimbursement procedures that will be fairly applied and will assist them in a general overall redesign of that system, not only with statutory changes, but through development of Department rules. Some simple amendments were offered, see copy.

There were no opponents to HOUSE BILL 658. The hearing was closed. Executive action was then taken on the following bills:

HOUSE BILL 480 - Representative Cooney moved that it DO PASS AS AMENDED. Representative Lynch seconded the motion. Discussion took place. Question was then called for and the motion carried with Representatives Ryan, Stobie, Cox and Vinger opposed.

HOUSE BILL 523 - Representative Lynch moved and Representative Palmer seconded that it DO PASS. Discussion. Motion carried unanimously.

HOUSE JOINT RESOLUTION 66 - Representative Lynch moved that it DO PASS. The governor's office has federal funds coming to deal with the matter in this resolution. Representative Cooney then seconded the motion and the question was called for. Motion carried with Representative Feda opposed.

HOUSE BILL 709 - It was moved that it DO PASS AS AMENDED. See amendments enclosed with these minutes. Motion carried unanimously.

45th LEGISLATIVE SESSION

COMMITTEE ON PUBLIC HEALTH, WELFARE AND SAFETY

	HOUSE BILL NO.	ENTERED COMM. 1977	DATE CONSIDERED 1977	OUT OF COMM. 1977	DO NOT DATE 1977	DO NOT PASS DATE 1977	DO PASS AS AMEND. DATE 1977	BE CONCURRED IN DATE 1977	BE CONC. IN AS AMENDED DATE 1977	BE NOT CONCURRED IN DATE 1977
19	418	Feb. 17	----	Mar. 3	(to another Committee via Jean Fallin)					
20	455	Feb. 25	Mar. 29	Mar. 31				Mar. 31		
21	480	" 25	" 26	" 28						Mar. 28
22	487	Mar. 2	" 24	" 25				Mar. 25 (AMENDED--WITHOUT RECOMMENDATION)		
23	490	Feb. 19	" 17	" 17				Mar. 17		
24	523	Feb. 25	" 22							
25	529	Feb. 21	" 17	Mar. 17				Mar. 17		
26	544	Feb. 25		Mar. 15	(to Judiciary)					
27	585	Feb. 17	" 22	Mar. 25				Mar. 25 AMENDED		
28	627	Mar. 25	" 30	Apr. 6				Apr. 6 AMENDED		
29	658	Mar. 2	" 31	Mar. 31				Mar. 31		
30	694	Feb. 25 Mar. 25	" 24 -----	Mar. 25 Mar. 28	(error)			Mar. 28 AMENDED		
31	724	Mar. 2	" 24	Mar. 24				Mar. 24 AMENDED		
32	730	Mar. 3	" 24	Mar. 25				Mar. 25 (AMENDED--WITHOUT RECOMMENDATION)		
33	772	Feb. 25	" 12	Mar. 31				Mar. 31 AMENDED		

(Use Separate Sheet for Senate, House Bills, and Resolutions)

ACTION ON HOUSE BIL 318: Senator Olson's motion that the stricken portion of the bill (see Committee Report) be re-instated was seconded by Senator Watt - it carried on a voice vote. Senator Rasmussen then moved the bill, as amended. By a unanimous vote, HB318 was, AS AMENDED, CONCURRED IN. (Chairman Stephens will carry the bill on the Senate floor.)

CONSIDERATION OF HOUSE BILL 523: Representative Kennerly addressed the Committee next. The sponsor explained this bill as one requested by the Department of Community Affairs. The legislation deals with day care centers on Indian reservations being licensed by the State, in order that those centers be eligible to receive SRS Title IV-A AFDC related day care monies.

Merle Lucas, Administrator, Department of Indian Affairs, testified this legislation is needed because the existing statute does not state whether they can license day care centers on Indian reservations. Mr. Lucas said the question has been raised as to what would happen if the minimum standards are not met under State law, and his answer is that if the facility on the Indian reservation does not meet minimum standards then it would be a case of the State not re-licensing that center for the next year. (See Exhibit "A")

There were no other witnesses for this bill.

Questions concerned matching State funds with federal funds; (there was some vagueness in the testimony here - Lucas said it all passed through federal funds and the tribe would have to finance. He stated the tribe would have to develop and finance the facility themselves. This legislation is aimed at a reimbursement idea - meaning that under the Aid to Dependent Children program, Indian children could go to this facility on the reservation and then that day care center would be reimbursed by welfare. As it is now, tribes are not eligible for this because of the licensing requirement. This legislation merely authorizes the State to license.) Questioning as to how this matter has been handled in the past brought out testimony that proponents think this bill would be a safeguard for both parties in that the two licenses already given to reservations by the State were not given with any authority - Mr. Lucas pointed out that the federal government realized there is a jurisdictional problem here and they have tried to overlook it - all this bill would do is clear up the matter. This bill would allow tribes to participate in Aid to Dependent Children. Senator Himsl asked how this bill compares with HB629 - the answer was the same bill was introduced twice (once under a different number) so HB629 was tabled.

ACTION ON HOUSE BILL 523: Senator Lee moved HB523 BE CONCURRED IN - motion carried unanimously. (Senator Lee will carry on the Senate floor.)

R O L L C A L L

PUBLIC HEALTH, WELFARE AND SAFETY COMMITTEE

45th LEGISLATIVE SESSION - 1977

DATE: 3

	NAME:	PRESENT:	ABSENT:	EXCUSED:	
1.	LEE, Robert	✓			LEE
2.	RASMUSSEN, Tom	✓			RASMUS
3.	OLSON, Stuart	✓			OLSON
4.	HIMSL, Matt	✓			HIMSL
5.	WATT, Robert	✓			WATT
6.	ROBERTS, Joe	✓			ROBERT
7.	NORMAN, Bill, V. Chm.	✓			NORMAN
8.	STEPHENS, Stan, Chairman	✓			STEPHE

Each day, attach to minutes.

NAME: (Please leave any prepared statement with Secretary)	TESTIFYING REPRESENTING:	ON BILL #	SUPPORT, OPPOSE OR AMEND?
[illegible]	Dept Health & Human Services	585	Support
Dan Williams	" " "	"	"
[illegible]	Montana Medical Assn	307	Support
[illegible]	Governor	[illegible]	[illegible]
[illegible]	Dept P.H.H.S.	[illegible]	" "
Jim MacKay	Mont Coal Council	585	—
MERLE R LUNAS	CSA/INDIAN AFFAIRS	523	Support
Vicki DeSonia	" " "	"	Support
Don Allen	Montana Petroleum Assn	585	—
Julie Jackson	WETA	585	—

STANDING COMMITTEE REPORT

MARCH 22 19 77

MR. PRESIDENT

We, your committee on PUBLIC HEALTH, WELFARE AND SAFETY

having had under consideration HOUSE Bill No. 523

Respectfully report as follows: That HOUSE Bill No. 523

third reading bill

BE CONCURRED IN.

~~DO PASS~~

STAN STEPHENS Chairman.

STATE PUB. CO.
Helena, Mont.

ROLL CALL

VOTE

SENATE COMMITTEE PUBLIC HEALTH, WELFARE AND SAFETY

45th LEGISLATIVE SESSION - 1977.

Date 3/22 Bill No. 523 Time

NAME	YES	NO
LEE, Robert	1	LEE
RASMUSSEN, Tom	2	RASM
OLSON, Stuart	3	OLSO
HIMSL, Matt	4	HIMS
WATT, Robert	5	WATT
ROBERTS, Joe	6	ROBE
NORMAN, Bill - V. Chn.	7	NORM
STEPHENS, Stan - Chairman	8	STEP

Joyce (Kelly) Allen
Secretary

STAN STEPHENS
Chairman

Motion: Senator Lee moved Be Concurred In

(include enough information on motion—put with yellow copy of committee report.)

HOUSE BILL NO. 523

INTRODUCED BY KENNERLY, WALDRON, JOHNSTON, R. BAETH

BY REQUEST OF THE DEPARTMENT OF COMMUNITY AFFAIRS

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION 10-806, R.C.M. 1947, TO ALLOW THE DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES TO RECEIVE APPLICATIONS FOR DAY CARE LICENSES FROM INDIANS RESIDING ON AN INDIAN RESERVATION."

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(c) Essential programs and practices carried on by the facility staff are developed and carried out with due regard for the protection of the health, safety, development, and well-being of the children

(d) Applicant and staff are qualified by practical

REFERENCE BILL

experience or education or training, to give good care and treatment to the children

(e) Physical facilities are of a kind that can meet the minimum state standards to provide for the protection of the children from fire and health hazards

(f) Intake records are kept on each child admitted for care

(g) The applicant and staff limits admissions to the maximum number indicated on the current license

(h) The applicant will arrange for the necessary precautions to guard against communicable diseases

(i) Public liability insurance and fire insurance is currently in force for the protection of the operator, his staff, and the facility."